Federal Communications Commission

Washington, D.C. 20554

In the Matter of) MM Docket No. 93-17
Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, (Rosendale, New York)	RM-8170 PEDERAL COMMUNICATIONS COMMISSION DOCKET FILE COPY OF GRAPH TO SHOW

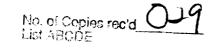
To: The Commission

REPLY TO STATEMENT IN SUPPORT OF APPLICATION FOR REVIEW

Aritaur Communications, Inc. ("Aritaur"), by and through counsel, and pursuant to §1.45 of the Commission's Rules (47 C.F.R. §1.45), hereby submits its Reply to the "Statement in Support of Application for Review" ("Statement") filed by WMHT Educational Telecommunications ("WMHT") in the above-captioned rulemaking proceeding.¹ In support whereof, the following is shown:

On April 23, 1996, State University of New York ("SUNY") filed an Application for Review of the Policy and Rules Division's Memorandum Opinion and Order, DA 96-376, released March 28, 1996, ("MO&O"), in the above-captioned proceeding.² The MO&O allotted Channel 273A to Rosendale, New York, and opened a window for the filing of applications. Ten parties, including

² Aritaur filed an Opposition to SUNY's Application for Review on May 8, 1996.



¹ This Reply is timely-filed within five days of the filing of WHMT's Statement (including three additional days for mailing time and not counting "holidays") or by May 20, 1996.

Aritaur, have filed applications for construction permit to operate of the Channel. SUNY's Application for Review seeks reversal of the MO&Q. On May 8, 1996, WMHT filed its Statement wherein it echoed some of the arguments raised by SUNY in its Application for Review. WMHT's Statement is frivolous, procedurally defective and should be given no consideration.

Section 1.115 of the Commission's Rules governs the filing of Applications for Review. Section 1.115(d) provides that oppositions may be filed and that replies to those oppositions may also be filed. The Commission's Rules do not provide for the filing of a "Statement in Support of Application for Review."

WMHT's Statement is substantively an Application for Review which should have been filed within 30 days of the release of the MO&O on March 28, 1996, or by April 29, 1996 (April 27, 1996 and April 28, 1996, were "holidays" under the Commission's Rules). WHMT's Statement was filed on May 8, 1996, and was filed too late to be treated as an Application for Review.

In addition, WHMT's Statement fails to provide a reason for the Commission to review the PRD's MO&O. WHMT merely echoes some of the arguments raised by SUNY in its Application for Review. As Aritaur has shown, SUNY failed to demonstrate any error in the PRD's MO&O. The PRD's action was supported by precedent and allotment of Channel 273A to Rosendale will serve the public interest. There are ten parties who desire an opportunity to serve Rosendale. WHMT's pleading should not be considered further.

WHEREFORE, the above-premises considered, Aritaur Communications, Inc. respectfully requests that the Statement in Support of Application for Review filed by WHMT Educational Telecommunications be DISMISSED WITHOUT CONSIDERATION.

Respectfully submitted,

ARITAUR COMMUNICATIONS, INC.

By:

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May 20, 1996

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CERTIFICATE OF SERVICE

I, Denise Lynn Felice, a secretary in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 20th day of May, 1996, copies of the foregoing were sent by first class mail, postage prepaid, to the following:

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